

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE A STAR GROUP, LLC,

Plaintiff,

v.

MANITOBA HYDRO; KPMG LLP
(CANADA); KPMG LLP (US); and
MANITOBA PUBLIC UTILITIES BOARD,

Defendants.

Case No. 13-cv-4501 (PAC)

Oral Argument Requested

ECF CASE

**DECLARATION OF KENNETH E. LEE IN SUPPORT OF DEFENDANT
THE PUBLIC UTILITIES BOARD OF MANITOBA'S MOTION TO
DISMISS THE COMPLAINT AND STRIKE THE DEMAND FOR A JURY TRIAL**

I, KENNETH E. LEE, hereby declare, under penalty of perjury, and state as follows:

1. I submit this declaration in support of Defendant The Public Utilities Board of Manitoba's (the "PUB") Motion to Dismiss the Complaint and Strike the Demand for a Jury Trial.

2. I am a partner of the law firm Levine Lee LLP, counsel for the PUB in this action, and have personal knowledge of the facts stated herein.

3. Attached hereto as Exhibit A is a true and correct copy of the relevant excerpt of The Manitoba Hydro Act.¹

¹ Full copies of relevant legislation are also available on the government of Manitoba's website at http://web2.gov.mb.ca/laws/statutes/index_ccsm.php#P. Full copies of relevant PUB Orders and Rules are available on the PUB's website at <http://www.pub.gov.mb.ca/electricity.html>.

4. Attached hereto as Exhibit B is a true and correct copy of the relevant excerpt of The Crown Corporations Public Review and Accountability Act (the “CCPRAA”).

5. Attached hereto as Exhibit C is a true and correct copy of the relevant excerpt of The Public Utilities Board Act (the “PUBA”).

6. Attached hereto as Exhibit D is a true and correct copy the relevant excerpt of the Public Utilities Board of Manitoba’s Rules of Practice and Procedure (the “PUB Rules”).

7. Attached hereto as Exhibit E is a true and correct copy of PUB Order 32/09, issued March 30, 2009.

8. Attached hereto as Exhibit F is a true and correct copy of PUB Order 30/10, issued March 26, 2010.

9. Attached hereto as Exhibit G is a true and correct copy of PUB Order 62/10, issued June 16, 2010.

10. Attached hereto as Exhibit H is a true and correct copy of PUB Order 95/10 (the “PUB Redaction Order”), issued September 20, 2010.

11. Attached hereto as Exhibit I is a true and correct copy of the Notice of Application to the Court of Queen’s Bench, Manitoba, filed by The A Star Group, Inc. on or about September 23, 2010, in the matter of *The A Star Group Inc. v. The Public Utilities Board*, CI10-01-68389.

12. Attached hereto as Exhibit J is a true and correct copy of the Amended Notice of Motion in the Manitoba Court of Appeal, filed by The A Star Group, Inc. on or about December 7, 2010, in the matter of *The A Star Group Inc. v. The Public Utilities Board*, AI10-30-07442.

13. Attached hereto as Exhibit K is a true and correct copy of the Notice of Discontinuation, dated November 9, 2012, in the matter of *The A Star Group Inc. v. The Public Utilities Board*, CI10-01-68389.

14. Attached hereto as Exhibit L is a true and correct copy of the docket in the matter of *The A Star Group Inc. v. The Public Utilities Board*, AI10-30-07442, available under that file number at <http://www.jus.gov.mb.ca/> (last visited November 22, 2013).

Dated: New York, New York
November 22, 2013

/s/ **Kenneth E. Lee**
Kenneth E. Lee